

# **EXHIBIT B**

Vol. 1

# The United States Senate

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## Report of Proceedings

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Hearing held before

Committee on the Judiciary

### EXECUTIVE SESSION

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Monday, July 10, 1961

Washington, D. C.

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The Honorable Robert F. Kennedy, Attorney General of the United States, Accompanied by: Byron R. White, Deputy Attorney General and Herbert J. Miller, Jr., Assistant Attorney General	6
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EXECUTIVE SESSION

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Monday, July 10, 1961

United States Senate,  
Committee on the Judiciary,  
Washington, D.C.

The Committee met, pursuant to notice, at 10:30 a.m.,  
in Room 2228, Senate Office Building, Senator James O.  
Eastland (Chairman) presiding.

Present: Senators Eastland (presiding), Kefauver,  
Johnston, McClellan, Ervin, Carroll, Hart, Dirksen, Hruska,  
Keating and Cotton.

Also present: Francis C. Rosenberger, Member, Profes-  
sional Staff.

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S. 1656

Mr. Rosenberger. S. 1656 is the next bill.

(S. 1656 referred to is as follows:)

COMMITTEE INSERT

Mr. Rosenberger. This bill, S. 1656, adds a new section. Under the new list of bills, it is the second.

Senator Keating. Appendix A, did you say?

Mr. Rosenberger. Appendix B.

The language which is omitted from the bill in printed form is, "Whoever leases, furnishes, or maintains any wire communication facility" and so on, which appears in lines 15 through 20 in the mimeographed sheet, and the new language is "Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipients to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers --"

Senator Kefauver. That would cover Western Union.

Mr. Kennedy. Yes.

Mr. Rosenberger. Then you add a new Section 4, which begins on line 39 of page 2 and runs to the end of the copy.

Mr. White. After discussion and hearings, there being noted that there was considerable sentiment that there should be further discussion before the telephone company itself or the telegraph company was subjected to a liability, we had

eliminated from the criminal penalty the telephone company or the company that furnishes. It is aimed now at those who use the wire communication facility for the transmission of bets or wagers in connection with a sporting event and also who use the facility for the transmission of the winnings, as suggested by Senator Kefauver.

Then in Section 4, we provide that the telephone company, after notice from a law enforcement agency, can terminate the telephone service, in which event, the company is immunized from suit.

Senator Keating. In other words, it places the burden on the law enforcement agency rather than the utility?

Mr. White. We are indebted to Senator Keating for this approach on the matter.

Senator Hruska. Well, now, this whole subject was canvassed way back in 1954 in the testimony of John Hanselman for the American Telephone and Telegraph Company. He refers there to the bill which was approved by the Senate and by the Interstate and Foreign Commerce Committee. I guess it is Senate 3542 way back there.

Does this bill, as you have amended it, substantially incorporate the substance of what was in that 1954 bill?

Mr. White. I am afraid I do not know that.

Senator Keating. May I answer that? I am not sure -- I cannot answer that question, but I can say this, that the

position of Mr. Hanselman and others, representing various telephone companies, was that they should not have the burden of determining whether a line is being used for criminal purposes. That burden should rest upon a law enforcement agency. They should only become liable when a law enforcement agency said to them "This line is being used illegally, you stop it."

Then if they did not stop it, they should be liable. As it is now, they cannot shut off a fellow's service, and under the original wording, they would be stuck if it were used illegally. I think this language used here at the end probably meets that objection.

My impression would be that this would be unobjectionable to them.

Senator Kefauver. Senator Hruska, the bills in 1954 grew out of the recommendation of the Senate Crime Committee. We had two approaches to the matter. At that time, we had found that there was a nation-wide wire service, the Continental Press Service, so-called. So we had one bill that would require the FCC to deny the application of any applicant for interstate service if a major portion of his business was going to be the transmission of illegal information.

Then we had another bill which is very similar to this one. Senator Johnston and the members of the Interstate



Commerce Committee decided on this penalty approach. So this is very much the same as the bill in 1954, which I think passed the Senate.

Senator Hruska. It did pass the Senate, but got stalled in the House.

Senator Keating. Let me ask the Attorney General, in his appendix on page 3, line 51, there is a word wrong there, is there not? Is that not "to secure appropriate materials"?

Mr. Kennedy. That is right.

Senator Kefauver. The legislative history, this "after notice to the subscriber," this is to give notice to the subscriber if he feels he is aggrieved or being wrongfully --

Senator Hruska. I should like the opportunity to check with representatives of that independent telephone association and these people. If it was designed to meet that situation, Mr. Attorney General, I have an idea all the component elements are in here. If they have some suggestions, I should like to transmit them.

Senator Kefauver. Senator Hruska, the Bell System filed a statement in which they asked this exemption outright which was contained here. The general or the independent telephone people had some other approach. But in the colloquy they said they would prefer outright exemption,